

FREQUENTLY ASKED QUESTIONS ABOUT FEED TONNAGE REQUIREMENTS

Q. Why are the manufacturers or distributors of commercial feeds required to report tonnage?

A. When Michigan's commercial feed law was amended in 1975, the requirement that a manufacturer or distributor register individual feed products was dropped in favor of licensing each company, and an alternative means of generating revenue to fund MDA's inspection program was needed. By adopting an inspection fee system based on feed tonnage, small volume companies now typically pay less than large volume companies. This is more equitable than the old system, which was not based on the amount of feed distributed, but on the number of products in a company's line.

Q. What is the inspection fee used for?

A. Inspection fees are used to help the inspection and sampling activities of the program. MDA routinely conducts inspections at manufacturers and distributors of animal feeds for compliance with sanitation, labeling and other requirements. Inspection staff also collects commercial feed samples that are tested for nutrients or animal drugs guaranteed on labels.

Q. Is the information included on a tonnage report ever made available to the public or to other companies?

A. The Commercial Feed Law (Section 6, Act No. 120, as amended) makes it illegal for an employee of MDA to disclose the information furnished in the reports in any manner which divulges the business operations of a licensee who is required by the law to file a report. However, the law does permit MDA to publish a report of gross tonnage of feed sold or distributed in Michigan.

Q. How is tonnage information used?

A. Following each reporting period, the information from individual reports is compiled into a report of the gross tonnage of feed sold or distributed in Michigan. This information can be provided to any interested party upon request. Industry trends pointed out by this data can assist MDA in planning and prioritizing its inspectional workload.

Q. If someone distributes only whole unmixed grains like wheat or corn, must they file a tonnage report?

A. Provided it is not adulterated, unmixed seed, whether whole or mechanically altered, and made from the entire seed is excluded from the definition of commercial feed

found in Michigan's commercial feed law. As such these materials are exempt from reporting and inspection fees.

Q. Is anything else exempt from reporting?

A. *Yes. Unground hay, straw, stover, silage, cobs, husks, and hulls provided they are not mixed with other materials. Michigan's law also exempts feeds distributed and used for any domesticated animal kept as a pet which is normally confined to and maintained in a cage or tank, including but not limited to gerbils, hamsters, canaries, psittacine birds, mynahs, finches, tropical fish, goldfish, snakes, and turtles.*

Q. Does a manufacturer of feed ingredients (vitamins, minerals, molasses, etc.) or commercial feeds used as ingredients (premixes, concentrates, supplements, etc.) have to report and pay tonnage fees?

A. *A manufacturer is required to report the number of tons of commercial feeds distributed in Michigan for use as ingredients in the further manufacture of commercial feeds. However, these products are exempt from the inspection fee when the manufacturer of the finished product files a tonnage report and pays the inspection fee. The name of the firm that will be paying the fee must be shown on the ingredient supplier's tonnage report. **Note:** the definition of commercial feed includes ingredients.*

Q. If a firm distributes a commercial feed, are they required to pay a tonnage fee if payment was made by a previous distributor?

A. *No.*

Q. Is a commercial feed manufacturer required to report and pay tonnage fees on customer-formula feeds?

*The commercial feed law does provide an exemption from paying a tonnage fee on customer-formula feeds, **except** that the exemption does not include any commercial feeds that are used as ingredients in customer-formula feeds. This exemption was intended to protect commercial feed manufacturers from paying tonnage on a customer's own grain that may sometimes be used in feed mixed for that same customer. While grain used in today's customer formula feeds is often supplied by the manufacturer, the current law does not provide for the MDA to make a distinction. This is likely to be addressed in future amendments to the feed law.*

Q. A firm manufactures "custom" feed for sale by another manufacturer or distributor. Are these feeds entitled to the customer-formula feed exemption?

No. A customer-formula feed is defined in the law as a feed that "consists of a mixture of commercial feeds, a mixture of commercial feeds and other ingredients, or a mixture of other ingredients, each batch of which is mixed according to the

*specific instructions of the **final** purchaser.” The term does not include those feeds manufactured for other manufacturers or distributors even if they are made using those customers’ own formulas. These firms are not the **final** purchasers.*

Q. If more than one customer requests the same formula for a feed, is it still a customer-formula feed?

A. *It is possible that, by coincidence, more than one customer of a particular feed mill could have the same formula. Remember that the formula must be developed according to the final purchaser's own specifications for it to be a customer-formula feed. Feeds manufactured using identical formulas developed or used by the manufacturer for sale to multiple customers are not considered customer-formula feeds and are subject to the labeling and tonnage requirements of commercial feeds. Likewise, formulas identical to any of the mill's own commercial feed (general inventory) formulas are not exempt from these requirements.*

Q. A mill grinds corn, mixes in soybean meal, and adds minerals to make a feed for a farmer. What tonnage fees, if any, are due on this feed?

A. *Assuming that the farmer purchasing it provided the formula for this mixture, this would be a customer-formula feed. That being established, the quantity of any individual grain components consisting of previously unmixed, whole grain, can be deducted from the total mix when calculating the fees due. The mixer is responsible for paying the fees on the soybean meal and minerals unless the supplier(s) of those ingredients have indicated that they have accepted responsibility for paying the tonnage fees.*

When completing the tonnage report, the licensee should show the full quantity of customer formula feeds produced, and then deduct the exempted portions at the bottom of the column (Line 38 - “less ingredients reported by supplier”). The report-filer should indicate in the box to the right of line 38 that the items exempted in this case were customer-owned grain used in customer-formula feed.

Q. Are feed tonnage reports checked for mathematical accuracy when received?

A. *Yes. When an error is found that reveals a firm underpaid its tonnage fees, the report will be corrected and the firm will be billed for the underpayment. If an error is discovered that resulted in an overpayment of more than \$5.00, MDA will automatically refund the overpayment.*

Q. Is it possible to get a refund if I discover that I paid too much when submitting my semi-annual report?

A. *By law, refunds of \$5.00 or less can only be made upon written request from the company that filed the report. This restriction is clearly stated at the bottom of the front page of the tonnage reporting form. Any request for a refund needs to be*

accompanied by a corrected report signed by the company's authorized representative. This is because the incorrect tonnage amounts must be adjusted in the official state records.

Q. What happens when a licensee fails to file a report?

A. *When all reports for the period have been entered, a delinquent list is generated from the state's license and tonnage database. Notices are sent to delinquent firms. Firm's submitting late reports are subject to the penalties detailed on the reporting form. If the firm still fails to submit a report, it is subject to possible license revocation, refusal by the state to renew the license, or other penalties allowed by law.*

Q. A person or firm sells bulk soybean meal or other commercial feed, but it is delivered directly from another manufacturer to the farm? Who is responsible for reporting the tonnage and paying the fees?

A. *As long as the product is going directly to the farmer without further mixing by the seller, the last licensee for the feed is responsible for fulfilling the tonnage requirements. This would probably be the company that manufactured it, but it could be a secondary distributor if its name appears on the bulk label.*

Q. The names of some chain merchandisers often appear on feed labels as the distributor. If these companies are not actually manufacturing the feeds, who reports the tonnage and pays the fees?

A. *Any company whose name appears on a feed label as the responsible party, is required to possess a commercial feed manufacturer's or distributor's license. As the licensee, they alone are responsible for meeting the tonnage requirements. However, by mutual agreement between the firms, the licenses for many of these distributors are actually submitted by the manufacturers of the feeds distributed and those manufacturers submit the tonnage reports and payments.*

Q. Are wild bird feed products and their related ingredients (corn, wheat, sunflower seed) exempt from all tonnage fees?

A. *Regardless of their labeling, once two or more of these same components have been mixed together, they become a commercial feed and are subject to reporting and fees. This includes all seed mixtures sold as bird feed, squirrel feed, etc. The legal definition of a commercial feed includes an exception, which states that unmixed whole seed is not a commercial feed. Corn (cracked corn is whole corn), wheat, millet, sunflower seed, or any other seed that is unmixed, are not subject to the tonnage requirement, provided that they are not labeled for use as feeds.*